

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
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Second Regular Session
2006

CHAPTER 182

SENATE BILL 1053

AN ACT

AMENDING SECTIONS 13-901 AND 31-233, ARIZONA REVISED STATUTES; RELATING TO
PROBATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-901, Arizona Revised Statutes, is amended to
3 read:

4 13-901. Probation

5 A. If a person who has been convicted of an offense is eligible for
6 probation, the court may suspend the imposition or execution of sentence and,
7 if so, shall without delay place ~~such~~ THE person on intensive probation
8 supervision pursuant to section 13-913 or supervised or unsupervised
9 probation ~~upon~~ ON such terms and conditions as the law requires and the court
10 deems appropriate, including participation in any programs authorized in
11 title 12, chapter 2, article 11. If a person is not eligible for probation,
12 imposition or execution of sentence shall not be suspended or delayed. If
13 the court imposes probation, it may also impose a fine as authorized by
14 chapter 8 of this title. If probation is granted the court shall impose a
15 condition that the person waive extradition for any probation revocation
16 procedures and it shall order restitution pursuant to section 13-603,
17 subsection C where there is a victim who has suffered economic loss. When
18 granting probation to an adult the court ~~shall~~, as a condition of probation,
19 SHALL assess a monthly fee of not less than fifty dollars unless, after
20 determining the inability of the probationer to pay the fee, the court
21 assesses a lesser fee. In justice and municipal courts the fee shall only be
22 assessed when the person is placed on supervised probation. For persons
23 placed on probation in the superior court, the fee shall be paid to the clerk
24 of the superior court and the clerk of the court shall pay all monies
25 collected from this fee to the county treasurer for deposit in the adult
26 probation services fund established by section 12-267. For persons placed on
27 supervised probation in the justice court, the fee shall be paid to the
28 justice court and the justice court shall transmit all of the monies to the
29 county treasurer for deposit in the adult probation services fund established
30 by section 12-267. For persons placed on supervised probation in the
31 municipal court, the fee shall be paid to the municipal court. The municipal
32 court shall transmit all of the monies to the city treasurer who shall
33 transmit the monies to the county treasurer for deposit in the adult
34 probation services fund established by section 12-267. Any amount greater
35 than forty dollars of the fee assessed pursuant to this subsection shall only
36 be used to supplement monies currently used for the salaries of adult
37 probation and surveillance officers and for support of programs and services
38 of the superior court adult probation departments.

39 B. The period of probation shall be determined according to section
40 13-902, EXCEPT THAT IF A PERSON IS RELEASED PURSUANT TO SECTION 31-233,
41 SUBSECTION B AND COMMUNITY SUPERVISION IS WAIVED PURSUANT TO SECTION 13-603,
42 SUBSECTION K, THE COURT SHALL EXTEND THE PERIOD OF PROBATION BY THE AMOUNT OF
43 TIME THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS APPROVES FOR THE
44 INMATE'S TEMPORARY RELEASE.

1 C. The court, ~~may~~ in its discretion, MAY issue a warrant for the
2 rearrest of the defendant and may modify or add to the conditions or, if the
3 defendant commits an additional offense or violates a condition, may revoke
4 probation in accordance with the rules of criminal procedure at any time
5 ~~prior to~~ BEFORE the expiration or termination of the period of probation. If
6 the court revokes the defendant's probation and the defendant is serving more
7 than one probationary term concurrently, the court may sentence the person to
8 terms of imprisonment to be served consecutively.

9 D. At any time during the probationary term of the person released on
10 probation, any probation officer ~~may~~, without warrant or other process, AND
11 at any time until the final disposition of the case, MAY rearrest any person
12 and bring the person before the court.

13 E. The court, on its own initiative or ~~upon~~ ON application of the
14 probationer, after notice and an opportunity to be heard for the prosecuting
15 attorney, and, on request, the victim, may terminate the period of probation
16 or intensive probation and discharge the defendant at a time earlier than
17 that originally imposed if in the court's opinion the ends of justice will be
18 served and if the conduct of the defendant on probation warrants it.

19 F. When granting probation the court may require that the defendant be
20 imprisoned in the county jail at whatever time or intervals, consecutive or
21 nonconsecutive, the court shall determine, within the period of probation, as
22 long as the period actually spent in confinement does not exceed one year or
23 the maximum period of imprisonment permitted under chapter 7 of this title,
24 whichever is the shorter.

25 G. If restitution is made a condition of probation, the court shall
26 fix the amount of restitution and the manner of performance pursuant to ~~the~~
27 ~~provisions of~~ chapter 8 of this title.

28 H. When granting probation, the court shall set forth at the time of
29 sentencing and on the record the factual and legal reasons in support of each
30 sentence.

31 I. If the defendant meets the criteria set forth in section 13-901.01
32 or 13-3422, the court may place the defendant on probation pursuant to either
33 section. If a defendant is placed on probation pursuant to section 13-901.01
34 or 13-3422, the court may impose any term of probation that is authorized
35 pursuant to this section ~~which~~ AND THAT is not in violation of section
36 13-901.01.

37 Sec. 2. Section 31-233, Arizona Revised Statutes, is amended to read:

38 31-233. Order for removal; purposes; duration; failure to
39 return; classification

40 A. ~~The director of the state department of corrections~~ may authorize
41 the temporary removal under custody from prison or any other institution for
42 the detention of adults under the jurisdiction of the ~~state department of~~
43 ~~corrections~~ of any inmate for the purpose of employing ~~such person~~ THE INMATE
44 in any work directly connected with the administration, management or
45 maintenance of the prison or institution in which the inmate is confined, for

1 purposes of cooperating voluntarily in medical research ~~which~~ THAT cannot be
2 performed at the prison or institution, or for participating in community
3 action activities directed toward delinquency prevention and community
4 betterment programs. ~~Such~~ THE removal shall not be for a period longer than
5 one day.

6 B. Under specific rules established by the director for the selection
7 of inmates, the director may also authorize furlough, temporary removal or
8 temporary release of any inmate for compassionate leave, for the purpose of
9 furnishing to the inmate medical treatment not available at the prison or
10 institution, for purposes preparatory to a return to the community within
11 ninety days of the inmate's release date or for disaster aid, including local
12 mutual aid and state emergencies. When an inmate is temporarily removed or
13 temporarily released for a purpose preparatory to return to the community or
14 for compassionate leave, the director may require the inmate to reimburse the
15 state, in whole or part, for expenses incurred by the state in connection
16 with the inmate's temporary removal or release.

17 C. EXCEPT IF COMMUNITY SUPERVISION IS WAIVED PURSUANT TO SECTION
18 13-603, SUBSECTION K, the department shall add the amount of time the
19 director approves for the inmate's temporary release to the inmate's term of
20 community supervision imposed by the court pursuant to section 13-603. While
21 the person is on temporary release the person is not on inmate status and is
22 under the jurisdiction of the department until the terms of community
23 supervision are met.

24 D. Any inmate who knowingly fails to return from furlough, temporary
25 removal or temporary release granted under ~~the provisions of~~ this section is
26 guilty of a class 5 felony.

APPROVED BY THE GOVERNOR APRIL 21, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2006.